

Remarks

Applicant submits this Amendment After Final Office Action to more particularly define the invention without adding new matter. Hence, no further search is needed and Applicant respectfully requests the Examiner enter the amendments.

The Examiner rejected claims 1-4, 7, 18-20, 23, and 26-27 under 35 U.S.C. §102 as being anticipated by U.S. Patent 1,724,349 ("Haag") and claims 1, 7, 18, 23 and 26 under 35 U.S.C. §102 as being anticipated by U.S. Patent 1,171,122 ("Schaff").

The Examiner also rejected claims 5, 6, 21 and 22 under 35 U.S.C. §103 as being obvious over Haag in view of design choice, claims 2-6, 19-22 and 27 under 35 U.S.C. §103 as being obvious over Schaff, and claims 8-17, 24 and 25 under 35 U.S.C. §103 as being obvious over any cited reference mentioned above. Because all of these claims rejected under 35 U.S.C. §103 are dependent claims, these claims will be allowable if the independent claims from which they depend are allowable. Therefore, based on the foregoing amendments to the independent claims, Applicant submits that all claims are allowable.

Claims 1 and 18, both of which are independent claims, require a heel region having an inner surface, an outer surface adapted to be in contact with a walking surface, and an opening extending from the inner surface to the outer surface. The opening is required to be a through-hole extending through the entire outsole from the inner surface to the outer surface that is adapted to contact the walking surface. Both claims also require a plug to be placed in the opening.

The Final Office Action specified that Haag shows outsole 1 having an opening extending from an inner surface to an outer surface, where the outer surface is defined to be between item 1 and the heel. However, this surface between item 1 and the heel

is not adapted to be in contact with the walking surface in the heel region because doing so would obviate the need for the heel. Because Applicant's invention requires an opening extend from the inner surface to the outer surface, which is adapted to be in contact with the walking surface in the heel region, as claimed in Applicant's claims 1 and 18, Applicant respectfully submits that Haag does not anticipate Applicant's claims 1 and 18 and that these claims are allowable.

Moreover, Haag teaches away from having an opening extend from the inner surface to the outer surface adapted to be in contact with the walking surface because Haag teaches a bored opening that provides a bottom to compress air. "[D]epressing action may compress the air in the pneumatic chamber in the rubber heel lift, so as to afford a cushion for the heel bone of the wearer." Page 3, lines 1-7 of Haag. Hence, Haag teaches the benefits of having a hole that does not go all the way through the heel to the outer surface that is adapted to be in contact with the walking surface.

Claim 28, the only other independent claim, requires an outsole having an inner surface and a footbed extending over the entire inner surface. Because Schaff does not disclose, teach, or suggest a footbed extend over the entire inner surface, claim 28 of Applicant's application is not anticipated. In fact, Schaff teaches a footbed that extends over only a portion of the outsole.

As shown in all figures, Schaff limits the footbed to extend only to the arch area. In fact, Schaff teaches away from Applicant's invention by specifying and showing the footbed to extend only to the arch area. The name of the title is "Combined Arch Support And Heel Cushion". "The particular objects of the invention are to provide an improvement in cushion heels combined with an arch support for the arch of the foot." Col. 1, lines 1-15.

Moreover, Schaff claims the combined arch and heel cushion be made of a sheet metal plate and, if the metal plate were to extend over the entire inner surface, Schaff's shoe would not bend at the toe area and walking would be difficult. This would render the invention of Schaff useless. Therefore, one skilled in the art would not modify Schaff to extend over the entire inner surface because to do so would ruin the invention. Hence, Schaff does not, and cannot teach or suggest, a footbed extending over the entire inner surface of the outsole.

Because Applicant's invention requires a footbed extend over an entire inner surface of an outsole, and because Schaff teaches away from such a footbed by claiming an arch support me made of metal, Applicant respectfully submits that Schaff does not anticipate Applicant's claim 28 and that this claim is allowable.

Because all rejections should be withdrawn in view of both Haag and Schaff, Applicant submits that all claims are in condition for allowance.

Respectfully submitted,



David Chen, Registration No. 46,613
Gene S. Winter, Registration No. 28,352
Attorneys for Applicant
ST.ONGE STEWARD JOHNSTON & REENS LLC
986 Bedford Street; Stamford, CT 06905-5619
203 324-6155